# Bill Draft 2009-LAz-23: Improve Tax & Debt Collection Process.

*2009-2010 General Assembly*

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| **Committee:** | Revenue laws Study Committee | **Date:** | April 20, 2010 |
| **Introduced by:** | | **Prepared by:** | Martha Walston<br>Committee Counsel |
| **Analysis of:** | 2009-LAz-23 | | |

***SUMMARY: This proposal, recommended by the Department of Revenue and developed in conjunction with the Office of State Controller and the North Carolina Bankers Association, would improve the tax and debt collection process of the Department of Revenue by:***

- ***Expanding the use of the Setoff Debt Collection Act to allow debts owed by a business to be set off against a tax refund due the business and to allow community colleges to submit for setoff debts owed the college.***
- ***Authorizing the use of electronic process for sending notice of garnishment.***
- ***Providing for a data match between the Department of Revenue and financial institutions holding accounts of delinquent taxpayers.***
- ***Expanding the Statewide Accounts Receivable Program to allow for collection of the following accounts receivable by setoff against payments the State owes to individuals and businesses: accounts receivable that are submitted to the Department of Revenue under the Setoff Debt Collection Act and overdue tax debts.***

**BILL ANALYSIS:**

Expansion of Setoff Debt Collection Act

The Setoff Debt Collection Act, enacted in 1997, authorizes the Department of Revenue to set off an individual's income tax refund against a debt the individual owes a State agency or local agency.[1] Under the Act, a claimant agency sends the Department notice of the debt and the Department immediately sets off the debt against the tax refund and notifies the taxpayer and the claimant agency.

The proposal in Sections 1.4 through 1.7 would expand the Setoff Debt Collection Act to allow community colleges to collect debts owed to them through setoff of tax refunds and to allow debts that a business owes a claimant agency to be set off against the entity's tax refund. Currently the Act only allows debts owed to claimant agencies by individuals to be set off against the individual's income tax refund.

Notice of Garnishment by Electronic Process

The Department of Revenue is authorized by statute to attach and garnish intangible property in payment of taxes owed to the Department. The kinds of property that are subject to attachment and garnishment are wages and salaries, rents, bank deposits, the proceeds of property subject to levy, and property in the Escheat Fund. When the property sought to be attached is the taxpayer's checking account, the garnishee is the bank. When the property is wages, the taxpayer's employer is the garnishee. No more than 10% of a taxpayer's wages or salary per month is subject to attachment and garnishment. Current law requires that the notice of garnishment must be delivered in person or by mail

[1] State agency includes a unit of the executive, legislative, or judicial branch of State government and a local agency to the extent it administers a program supervised by DHHS. A local agency includes a county, municipality, water and sewer authority, regional joint agency created by interlocal agreement, public heath authority, metropolitan sewerage district, or sanitary district.

The proposal, in Section 2.2, authorizes electronic notice, if the garnishee agrees to this method and the Department and garnishee have an agreement that establishes the protocol for electronic notice.

The proposal also streamlines the process if the garnishee is a financial institution by reducing the time period for filing a response to the notice of garnishment from 30 days to 10 days and by releasing the notice of garnishment when the institution complies with the notice. All other garnishees will continue to receive a notice of release. Streamlining would be consistent with the current garnishment practice with banks wherein the Department faxes notice of garnishment to a bank and the bank then sends money in the account to the Department within 10 to 15 days. Sections 2.1 and 2.3 make this streamlining change.

<u>Data Match between Financial Institutions and the Department of Revenue</u>
The proposal, in Section 2.1, further streamlines the attachment and garnishment process with financial institutions. The Department would be authorized to submit information to a financial institution on a quarterly basis, or with the agreement of the financial institution, more frequently. The information would identify any delinquent taxpayer to a financial institution and require the financial institution to notify the Department of the amount the institution may hold that belongs to the taxpayer. The Department will reimburse the financial institution for the cost of providing the information. The cost may not exceed the amount that the Department of Health and Human Services currently pays to financial institutions for conducting a data match in order to attach and garnish the account of an absent noncustodial parent.[2]

<u>Expansion of Statewide Accounts Receivable</u>
The Statewide Accounts Receivable Program, enacted in1993, requires the State Controller to monitor accounts receivable owed to State agencies, to adopt procedures for the management and collection of accounts receivable, and to establish procedures for writing off accounts receivable.[3] The Program also provides for written-off accounts receivable to be set off against payments the State owes to debtors. A written-off accounts receivable is one that has been removed from a State agency's accounts receivable records.

The proposal, in Sections 1.1 through 1.3, would expand the Statewide Accounts Receivable Program as follows:

- Expand the definition of "accounts receivable" to include taxes.
- Allow debts that have been submitted to the Department of Revenue under the Setoff Debt Collection Act to be set off against payments the State owes to these debtors. The following is an example of how this proposal would work. The Department of Revenue will give the State Controller a list of debtors under the Setoff Debt Collection Act. The State Controller will then check to see if any of these debtors are vendors that are owed money by the State for services or goods received by the State. The State Controller will then deduct the amount of the debt from the amount owed by the State. The State Controller will send this amount to the claimant agency owed the debt.

**EFFECTIVE DATE:** Part I of the act is effective when it becomes law. Part II of the act becomes effective January 1, 2011.

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[2] The DHHS and financial institutions have developed a data match system that requires a financial institution to provide DHHS the following information on a quarterly basis in order to secure child support: name, SSN, address, telephone number, account numbers, and other identifying data for any person who maintains an account at the financial institution.
[3] An account receivable is an asset of the State reflecting a debt owed to the State. The term includes claims, damages, fees, fines, forfeitures, loans, overpayments, and tuition as well as penalties, interest and other costs authorized by law. The term does not include court costs or fees.